

1 JOSEPH P. RUSSONIELLO (CABN 44332)
2 United States Attorney

3 BRIAN J. STRETCH (CABN 163973)
4 Chief, Criminal Division

5 TRACIE L. BROWN (184339)
6 Assistant United States Attorney
7 450 Golden Gate Ave., Box 36055
8 San Francisco, California 94102
9 Telephone: (415) 436-7200
10 Fax: (415) 436-7234
11 E-Mail: tracie.brown@usdoj.gov

12 Attorneys for Plaintiff

FILED

AUG 03 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) No. CR 08-0845 CRB

14 Plaintiff,)

15 v.)

16 PATRICIA MORGAN and MICHAEL)

17 WARE,)

18 Defendants.)

**STIPULATION AND [PROPOSED]
ORDER EXCLUDING TIME AND
CONTINUING AUGUST 5, 2009
HEARING AS TO DEFENDANT
MICHAEL WARE**

21 The defendant, Michael Ware, represented by Loren Stewart, AFPD, and the government,
22 represented by Tracie L. Brown, Assistant United States Attorney, are currently scheduled to
23 appear before the Court on August 5, 2009, for status or possible change of plea.

24 At the last calling of the case on May 27, 2009, the parties agreed and the Court ordered
25 that time be excluded from May 27, 2009 to July 8, 2009 based on effective preparation of
26 counsel, in light of the need to continue to review voluminous discovery. The Court found that
27 failing to exclude time would unreasonably deny the defendant continuity of counsel and would
28 deny defendant's counsel the reasonable time necessary for effective preparation, taking into

ORDER EXCLUDING TIME (WARE)
Case No. CR 08-0845 CRB

1 account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

2 The parties are currently in the process of negotiating a plea agreement that will resolve
3 both the charges pending in this District, as well as those pending in the District of Nevada. In
4 addition, since the last calling of the case, defense counsel has continued to review discovery,
5 although he has been out of the District for a substantial period of time. Further, counsel for the
6 government will be out of the District for part of August.

7 Accordingly, the parties request that the Court VACATE the August 5, 2009 hearing, and
8 continue it to September 2, 2009, which is the next Wednesday on which both counsel and the
9 Court are available. The parties expect that Mr. Ware will enter a guilty plea on that date. The
10 parties further request that time be excluded from July 8, 2009 to September 5, 2009, based on
11 effective preparation and continuity of counsel, in light of the complexity of the case, the volume
12 of discovery, and the travel schedule of both counsel. It is agreed that failure to exclude time
13 would unreasonably deny the defendant and the government continuity of counsel and would
14 deny defendant's counsel the reasonable time necessary for effective preparation, taking into
15 account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

16

17 DATED: 7/31/09

/s/
TRACIE L. BROWN
Assistant United States Attorney

19

20 DATED: 7/31/09

/s/
LOREN G. STEWART
Attorney for Michael Ware

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **[PROPOSED] ORDER**

2 Pursuant to stipulation, it is hereby ordered that the August 5, 2009 hearing is vacated and
3 continued to September 2, 2009, at ~~2:15 p.m.~~^{10:00a.m.}

4 Pursuant to the facts set forth in the parties' stipulation, the Court also finds that the ends
5 of justice served by excluding the time between July 8, 2009 and September 2, 2009 from
6 computation under the Speedy Trial Act outweigh the best interests of the public and the
7 defendant in a speedy trial. Therefore, IT IS HEREBY ORDERED that the time between July 8,
8 2009 and September 2, 2009 shall be excluded from computation under the Speedy Trial Act. 18
9 U.S.C. § 3161(h)(7)(A) and (B)(iv).

10 DATED: Aug 6 3 2009

11
12 THE HON. CHARLES R. BREYER
United States District Judge